

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MB Docket No. 05-244
FM Table of Allotments,) RM-11257
FM Broadcast Stations.)
(Fruit Cove and St. Augustine, Florida))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: December 14, 2005

Released: December 16, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. Before the Audio Division for consideration is a *Notice of Proposed Rule Making*¹ issued at the request of Renda Broadcasting Corporation of Nevada ("Petitioner"), licensee of Station WSOS-FM, Channel 231C3, St. Augustine, Florida. Petitioner proposes to reallocate Channel 231C3 from St. Augustine to Fruit Cove, Florida, and modify the license of Station WSOS-FM to reflect the change of community. Petitioner filed comments reiterating its intention to file an application for a construction permit to effectuate the change of community if Channel 231C3 is allotted. No other comments were filed.

2. Petitioner filed its proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission's rules, which permits the modification of a station's license to specify a new community of license while not affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.² In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments.⁴ The proposal would provide a first local service at Fruit Cove (a Census Designated Place with a 2000 U.S. Census population of 16,077 persons) under Priority Three which would result in a preferential arrangement of allotments over the retention of a fifth local service at St. Augustine (with a 2000 U.S. Census population of 11,592 persons) under Priority Four.³

3. Our engineering analysis shows that Channel 231C3 can be reallocated from St. Augustine to Fruit Cove, Florida in conformity with the technical requirements of the Commission's rules at coordinates located 30-01-27 North Latitude and 81-36-19 West Longitude with a site restriction of 10.2 kilometers (6.4

¹ *Fruit Cove and St. Augustine, Florida*, 20 FCC Rcd 12987 (MB 2004).

² See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990).

³ St. Augustine will continue to receive local service from AM Stations WAOC and WFOY, and noncommercial educational FM stations WAYL and WFCF.

miles) south of the community. As a result of the reallocation to Fruit Cove, there will be a predicted net gain in service to 355,868 persons over a net gain in area of 687 square kilometers. Both gain and loss areas are well-served with 5 or more full-time reception services.⁴ Although Petitioner asserted that a *Tuck*⁵ showing was not required because the proposal will significantly reduce WSOS-FM's 70 dBu coverage of an urbanized area from 74.5% of the St. Augustine Urbanized Area to 26.4% of the Jacksonville Urbanized Area, it nevertheless provided such a showing. Our engineering analysis shows that a *Tuck* showing is not required because Fruit Cove is not located within an urbanized area and its proposed 70 dBu signal coverage of an urbanized area is less than 50%.⁶ Specifically, the proposed 70 dBu signal will reduce the percentage coverage of the St. Augustine Urbanized Area from 72.3% to 1.7% and will increase coverage of the Jacksonville Urbanized Area from 6.6% to 26.8%. However, assuming *arguendo* that a *Tuck* analysis is required we find that a majority of the 8 *Tuck* factors are present to establish Fruit Cove's independence from the St. Augustine, Florida and Jacksonville, Florida Urbanized Areas.⁷

4. For all the foregoing reasons, we conclude that the public interest would be served by reallocating Channel 231C3 to Fruit Cove, Florida. This will provide Fruit Cove with its first local service while not depriving St. Augustine of its sole local service. Therefore, in accordance with the provisions of 47 C.F.R. Section 1.420(i), we will modify the license of Station WSOS-FM, Channel 231C3, St. Augustine, Florida to specify operation on Channel 231C3 at Fruit Cove, Florida.

5. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. Section 801(a)(1)(A).

6. Accordingly, pursuant to authority contained in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b), and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective

⁴ See *LaGrange and Rollingwood, Mississippi*, 10 FCC Rcd 3337 (1995). See also *Family Broadcasting Group*, 53 RR 2d 662 (Rev. Bd. 1983), *rev. denied* FCC 83-559 (Comm. Nov. 29, 1983) (The Commission has considered five or more services to be "abundant.").

⁵ *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

⁶ See *Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (MMB 1995).

⁷ The Commission considers the following factors in determining a community's interdependence with a central city: (1) the extent to which community residents work in the larger metropolitan area, rather than the specified community; (2) whether the smaller community has its own newspaper or other media that covers the community's local needs and interests; (3) whether community's leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area; (4) whether the specified community has its own local government and elected officials; (5) whether the smaller community has its own zip code or telephone book provided by the local telephone company; (6) whether the community has its own commercial establishments, health facilities, and transportation systems; (7) the extent to which the specified community and the central city are part of the same advertising market; and (8) the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools, and libraries. *Tuck*, 3 FCC Rcd at 5378.

January 30, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED for the communities listed below, to read as follows:

<u>Community</u>	<u>Channel</u>
St. Augustine, Florida	---
Fruit Cove, Florida	231C3

7. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Renda Broadcasting Corporation of Nevada, for Station WSOS-FM, Channel 231C3, St. Augustine, Florida, IS MODIFIED to specify operation on Channel 231C3, Fruit Cove, Florida, subject to the following conditions:

- a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and
- c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

8. Pursuant to 47 C.F.R. Sections 11.1104(1)(k) and (3)(l), Renda Broadcasting Corporation of Nevada, licensee of Station WSOS-FM, is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the change in community of license for Station WSOS-FM at the time its Form 301 application is submitted.

9. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this Report and Order to Petitioner's counsel, as follows:

Renda Broadcasting Corporation of Nevada
C/o Mark N. Lipp, Esquire
Vinson & Elkins L.L.P.
1455 Pennsylvania Ave., N.W.
Suite 600
Washington, D.C. 20004-1008

10. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

11. For additional information concerning this proceeding, contact Helen McLean, Media Bureau (202) 418-2738.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau